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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 BENNIE LEE MATHIS,

12 Plaintiff,

13 vs.

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19 DOMINGO URIBE, JR., Warden,

20 Defendant.
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CASE NO. 09cv230-MMA(AJB)

**ORDER ACCEPTING REPORT AND
ADOPTING FINDINGS,
CONCLUSIONS, and
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE;**

[Doc. No. 13]

**OVERRULING PETITIONER'S
OBJECTIONS;**

[Doc. Nos. 14 & 15]

**GRANTING RESPONDENT'S
MOTION TO DISMISS**

[Doc. No. 6]

**DISMISSING PETITION WITH
PREJUDICE**

[Doc. No. 1]

25 Petitioner Bennie Lee Mathis, a state prisoner proceeding *pro se*, filed a Petition for Writ of
26 Habeas Corpus ("petition") challenging his conviction in 1993 for murder and his subsequent
27 indeterminate life sentence [Doc. No. 1]. Respondent moves to dismiss the petition as untimely
28 [Doc. No. 6]. Petitioner filed an opposition to the motion [Doc. No. 11]. The matter was referred to

1 United States Magistrate Judge Anthony J. Battaglia for preparation of a Report and
2 Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and Civil Local Rule 72.3. Judge Battaglia
3 issued a well reasoned and thorough Report recommending this Court grant Respondent's motion to
4 dismiss. Petitioner timely filed objections [Doc. Nos. 14 & 15]. Respondent did not file an
5 objection or a response to Petitioner's objections.

6 Under 28 U.S.C. § 636(b)(1), in reviewing a magistrate judge's report and recommendation,
7 the district court "shall make a *de novo* determination of those portions of the report . . . to which
8 objection is made," and "may accept, reject, or modify, in whole or in part, the findings or
9 recommendations made by the magistrate judge." In the instant case, Petitioner objected to the
10 Report and Recommendation. The Court has considered the merits of Petitioner's objections, and
11 overrules them. Judge Battaglia reported the facts and applied the law correctly, reaching sound
12 conclusions that this Court has no reason to reject.

13 Having reviewed the Report and Recommendation and the files and records herein, the Court
14 adopts Judge Battaglia's Report and Recommendation in its entirety. Accordingly, the Court
15 **ADOPTS** the Report and Recommendation to Grant Respondent's Motion to Dismiss in its
16 entirety and **DISMISSES** Petitioner's petition with prejudice for violating the limitation period of
17 28 U.S.C. § 2244(d).

18 **IT IS SO ORDERED.**

19 DATED: October 20, 2009

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21 Hon. Michael M. Anello
22 United States District Judge
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